

**Memorandum of Understanding**

**between the**

**Cayman Islands Monetary Authority (CIMA)**

**and the**

**Jersey Financial Services Commission (JFSC)**

**on the Exchange of Information  
for Co-operation and Consultation**

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**WHEREAS:**

- A.** The Cayman Islands Monetary Authority (hereinafter "CIMA") and the Jersey Financial Services Commission (hereinafter "JFSC") and together hereinafter referred to as "the Authorities" recognise the need for mutual co-operation between the Authorities in the carrying out of their regulatory and supervisory functions under the relevant laws, regulations and rules in their respective jurisdictions.
- B.** The Authorities further acknowledge the importance of compliance with relevant international standards established by international standard setting bodies such as the Basel Committee on Banking Supervision, the International Association of Insurance Supervisors (IAIS), the International Organisation of Securities Commissions (IOSCO) and the Financial Action Task Force (FATF).
- C.** The arrangements outlined below are intended to enhance the existing working relationship between the Authorities.

This agreement is based upon the recognition that effective supervision in these areas can only take place in an environment where there is mutual trust, confidence, understanding and co-operation between regulatory bodies.

The Memorandum of Understanding thus establishes a general framework for mutual assistance and co-operation and sets out when consultation should take place and the type of supervisory and enforcement information that may be exchanged between the two Authorities.

## **1 DEFINITIONS**

**"Requesting Authority"** means the Authority that makes a request pursuant to section 5 of this Memorandum of Understanding.

**"Requested Authority"** means the Authority to whom a request is made pursuant to section 5 of this Memorandum of Understanding.

**"Person"** means a natural person, body corporate, partnership, or unincorporated association, government or political subdivision, agency or instrumentality of a government.

**"Financial Institutions"** mean the institutions and persons regulated and supervised by either of the Authorities.

**“Jurisdiction”** means the country, state or other territory, as the case may be, in which either of the Authorities has legal authority, power and/or jurisdiction by law.

**“Memorandum of Understanding”** means a document containing arrangements for both mutual co-operation and exchange of information between regulatory bodies.

## **2. INTENTION**

- 2.1 This Memorandum of Understanding sets forth a statement of intent of the Authorities to establish a framework for mutual assistance and to facilitate the exchange of information between the Authorities to enforce or secure compliance with any laws, regulations or rules relating to the functions and duties of the Authorities in their respective jurisdictions.
- 2.2 The Authorities intend to provide one another with assistance under this Memorandum of Understanding to the full extent permitted by the laws, regulations and rules of their respective jurisdictions.
- 2.3 This Memorandum of Understanding will serve to promote the integrity, efficiency and financial soundness of financial institutions by improving the effectiveness of regulation, enhancing the supervision of cross-border transactions, and preventing fraudulent and other prohibited practices in Jersey and the Cayman Islands.
- 2.4 This Memorandum of Understanding does not create any binding legal obligations upon the Authorities.
- 2.5 The provisions of this Memorandum of Understanding do not lead to the right of any person, directly or indirectly, to obtain, suppress or exclude any information or to challenge the execution of a request for assistance under this Memorandum of Understanding.
- 2.6 The Authorities will use reasonable effort to provide each other, as permitted by the laws of their respective jurisdictions, with any information that they discover which leads to a suspicion of a breach or anticipated breach of rules or laws in the jurisdiction of the other Authority.

### 3. SCOPE

- 3.1 Through the machinery set up by this Memorandum of Understanding, the Authorities agree to promote mutual assistance and exchange of information to enable the Authorities to perform their respective duties and functions effectively according to the laws, regulations and rules of their respective jurisdictions.
- 3.2 In terms of this general theme, the scope of this Memorandum of Understanding includes the following:
- (a) assisting in the discovery of and taking of action against unlicensed business and unlawful activities and practices contrary to international standards subscribed to by the Authorities in relation to activities they regulate;
  - (b) enforcement of the laws, regulations and rules relating to banking or other financial activities subject to regulation by the Authorities in their respective jurisdictions;
  - (c) regulation and supervision of deposit-takers, investment businesses, stockbrokers, banks, financial institutions, collective investment schemes, clearing and settlement activities, insurance companies, corporate service money brokers, money exchange providers, trust and company service providers and financial advisers;
  - (d) promoting and securing the fit and proper qualities of regulated financial institutions and the promotion of high standards of fair dealing and integrity in their conduct of business;
  - (e) assisting in the carrying out of responsibilities for the prevention of and enquiries relating to money laundering and terrorist financing under the laws of the respective jurisdictions including the proper implementation of anti-money laundering and anti-terrorist financing procedures by financial institutions; and
  - (f) any matters agreed upon between the Authorities from time to time.

#### **4. UNDERTAKING OF INSPECTION VISITS**

- 4.1 In order to facilitate the effective consolidated supervision of financial conglomerates or financial groups, each Authority is entitled to undertake inspection visits on licensed entities who are subordinate parts of those conglomerates or groups in the other Authority's jurisdiction.
- 4.2 Where an Authority intends to visit a financial institution in the other Authority's jurisdiction, notice of the intended visit must be given to the other Authority, together with details of the nature and scope of the visit.
- 4.3 The Authority in whose jurisdiction an entity is being visited will afford as full co-operation as possible in facilitating such a visit.
- 4.4 In undertaking such a visit the visiting Authority will invite officers of the resident Authority to attend the visit and the resident Authority may attend as it sees fit.
- 4.5 It is recognised that if either Authority has reason to believe that an inspection or on-site visit is for non-supervisory purposes, it has the right to prevent the visit taking place or to terminate it and require the surrender of all information obtained for non-supervisory or non-regulatory purposes.

#### **5. REQUESTS FOR ASSISTANCE OR INFORMATION**

- 5.1 This Memorandum of Understanding does not affect the ability of the Authorities to obtain information from persons on a voluntary basis, provided that the Authorities observe procedures in the jurisdiction of each Authority for the obtaining of such information.
- 5.2 To facilitate communication and ensure continuity in the co-operation between the Authorities, each Authority designates the contact persons set forth in **Appendix A** hereto for communications under this Memorandum of Understanding.
- 5.3 A Requesting Authority will make requests for assistance in writing addressed to a contact officer of the Requested Authority.

- 5.4 The request will include -
- (a) a description of both the subject matter of the request and the purpose for which the Requesting Authority seeks the assistance or information;
  - (b) a description of the assistance, documents or information sought by the Requesting Authority;
  - (c) any information in the possession of the Requesting Authority that might assist the Requested Authority in identifying the persons, bodies or entities believed by the Requesting Authority to possess the information sought, or the places where the Requested Authority may obtain such information;
  - (d) the legal provisions concerning the matter that is the subject matter of the request and the relevance of the requested information to the specified laws or regulatory requirements;
  - (e) details of any other authorities, governmental or non-governmental, that are co-operating with the Requesting Authority or seeking information from the confidential files of the Requesting Authority and to whom onward disclosure of information is likely to be necessary; and
  - (f) the desired period of time for the reply.
- 5.5 In urgent circumstances, the Requested Authority will accept a request for assistance and will expedite to the extent possible a reply thereto by summary procedures or by means of communication other than the exchange of letters. Such urgent communications must be confirmed in writing as prescribed above by the contact person set out in Appendix A within five business days.

## 6. EXECUTION OF REQUESTS

- 6.1 Where the Requested Authority is satisfied in accordance with this Memorandum of Understanding and the laws governing the Requesting Authority that the assistance should be given, the Requested Authority will, to the extent permitted by law, take all reasonable steps to provide the assistance or information sought.
- 6.2 The Requested Authority shall use all the relevant means at its disposal for the execution of the request. The Authorities shall consult and agree on the types of enquiry that may be necessary for the execution

of the request, including the provision of further information as to the circumstances surrounding the request, staff and other resources.

- 6.3 Each request will be assessed on a case-by-case basis by the Requested Authority to determine whether information can be provided under the terms of this Memorandum of Understanding.

## **7. UNSOLICITED INFORMATION**

- 7.1 Where one Authority has information that will assist the other Authority in the performance of its regulatory functions, the former may provide such information, or arrange for such information to be provided voluntarily, to the extent permitted by the laws of its respective jurisdiction even though the other Authority has made no request. The terms and conditions of this Memorandum of Understanding will apply if the providing Authority specifies that it is passing the information under this Memorandum of Understanding.

## **8. PERMISSIBLE USES OF INFORMATION**

- 8.1 Any assistance or information provided under the terms of the Memorandum of Understanding shall only be used for the purpose identified in paragraph 3.1.
- 8.2 The Requesting Authority may not use information furnished for any purpose other than those identified in terms of paragraph 3.2 without the consent of the Requested Authority.
- 8.3 If the Requesting Authority wants to use the information obtained for any purpose other than those stated in terms of paragraph 3.2, the Requesting Authority must seek and obtain the consent in writing of the Requested Authority prior to the use of such information.
- 8.4 Where the Requesting Authority believes that sharing confidential information with a third party is necessary, it must inform the Requested Authority of the third party's interest in this information and it must provide the Requested Authority with the opportunity to oppose such use.
- 8.5 If the Requested Authority opposes the sharing of the information with a third party then the information shall not be shared with the third party.



- 8.6 The requesting Authority may consult with the Requested Authority concerning the reasons for the objection if the Requested Authority opposes such use.
- 8.7 Notwithstanding the restrictions in the use of information received under the terms of the Memorandum of Understanding referred to in paragraph 8.1, the Authorities recognise that disclosure of such information may occur where an enforceable demand is made on the Requesting Authority to disclose information or where there is a statutory obligation on the Requesting Authority to do so. In such circumstances, the Requested Authority should notify the other Authority that a disclosure has been made, such notification to be made in advance where this is possible.

## 9. CONFIDENTIALITY

- 9.1 The Authorities will, to the full extent permitted by the laws, regulations and rules of their respective jurisdictions, keep confidential:-
- (a) any request for assistance or information pursuant to this Memorandum of Understanding;
  - (b) any confidential information received or provided pursuant to this Memorandum of Understanding; and
  - (c) any matter arising during the operation of this Memorandum of Understanding, including consultations and unsolicited assistance.
- 9.2 The Requesting Authority shall not disclose the assistance or information obtained pursuant to this Memorandum of Understanding to third parties without the prior consent of the Requested Authority.
- 9.3 Notwithstanding the provisions of paragraphs 9.1 and 9.2, the confidentiality provisions of this Memorandum of Understanding shall not prevent the Authorities from informing the law enforcement or regulatory bodies in their respective jurisdictions of a request or from passing information received pursuant to a request provided that:-
- (a) such agencies or bodies have responsibility for prosecuting, regulating or enforcing rules or laws falling within the scope of this Memorandum of Understanding; or

- (b) the purpose of passing on such information to such an agency or body falls within the scope of this Memorandum of Understanding; and
- (c) an undertaking has been obtained from the recipient by the Requested Authority that it will maintain the confidentiality of the information.

9.4 The Authorities' confidential treatment of assistance and information will continue when either Authority gives notice of its intent to cease co-operation under this Memorandum of Understanding. The Authorities understand that the laws, regulations and rules of their respective jurisdictions place limitations on use and disclosure of non-public information obtained pursuant to this Memorandum of Understanding.

## 10. RIGHTS OF REQUESTED AUTHORITY

10.1 The Requested Authority may deny requests for assistance under the Memorandum of Understanding -

- (a) where the request would require the Requested Authority to act in a way that would violate the laws of the jurisdiction of the Requested Authority;
- (b) where the request is not in accordance with the provisions of this Memorandum of Understanding;
- (c) where corresponding assistance would not be given in the country or territory of the Requesting Authority;
- (d) where the request involves a breach of law or other requirement which has no close parallel in the country or territory of the Requested Authority or involves the assertion of a jurisdiction not recognised in the country or territory of the Requested Authority;
- (e) on the grounds of public interest; or
- (f) where the request would obstruct an ongoing investigation or impair the operation of the Requested Authority.

10.2 Where the Requested Authority denies a request for assistance, or where assistance is not available under the law of the jurisdiction of the Requested Authority, the Requested Authority will provide the

reasons why it is not granting the assistance. The Authorities will then consult pursuant to clause 11.

- 10.3 The Authorities recognise that they intend nothing in the Memorandum of Understanding to either limit or enhance the powers of the Authorities under the laws of their respective jurisdictions.

## 11. CONSULTATION

- 11.1 The Authorities will consult with each other to improve the operation of the Memorandum of Understanding and resolving any matters that may arise including but not limited to -

- (a) matters of mutual interest to enhance co-operation and to protect investors and depositors by ensuring the stability, efficiency and integrity of the financial services industry in their respective jurisdictions,
- (b) the co-ordination of the supervision of financial institutions; and
- (c) the administration of the laws, regulations and rules of their respective jurisdictions.

The purpose of such consultations is to assist in the development of mutually agreeable approaches for strengthening the financial services industries of their respective jurisdictions whilst avoiding, whenever possible, conflicts that may arise from the application of differing regulatory practices.

- 11.2 The Authorities will consider the need for additional measures for the exchange of investigation, enforcement, supervisory and surveillance information in the administration and enforcement of the laws, regulations and rules concerning financial institutions in their respective jurisdictions, on an ongoing basis. To this end, the Authorities will inform one another of the adoption of domestic measures that may affect their respective authority to provide assistance under this Memorandum of Understanding.
- 11.3 The Authorities may take practical measures as may be necessary to facilitate the implementation of the Memorandum of Understanding. As such, the Authorities may amend, relax or waive any of the terms of the Memorandum of Understanding.

## **12. COSTS OF INVESTIGATION**

- 12.1 If it appears that the Requested Authority will incur substantial costs in responding to a request for assistance under this Memorandum of Understanding, the Requested Authority may, as a condition to executing the requests, require the Requesting Authority to contribute to its cost in an amount agreed upon by the Authorities.
- 12.2 Where work on a request for assistance is commenced without a cost sharing agreement and it subsequently becomes apparent that substantial costs have been, or will be, incurred, the two Authorities will enter into a cost sharing arrangement to cover these costs.

## **13. TERMINATION OF THE MEMORANDUM OF UNDERSTANDING**

- 13.1 This Memorandum of Understanding will continue in effect until the expiration of 30 days after either Authority gives written notice to the other Authority of its intention to terminate the Memorandum of Understanding. If either Authority gives such notice, this Memorandum of Understanding will continue to have effect with respect to all requests for assistance that the Authorities made before the effective date of notification until the Requesting Authority terminates the matter for which it requested assistance.

## **14. EFFECTIVE DATE**

- 14.1 This Memorandum of Understanding will be effective from the date of its signing by the Authorities.

SIGNED on this 21<sup>st</sup> day of August 2006

**FOR AND ON BEHALF OF  
THE CAYMAN ISLANDS MONETARY AUTHORITY**



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**Cindy Scotland**  
Managing Director

**FOR AND ON BEHALF OF  
THE JERSEY FINANCIAL SERVICES COMMISSION**



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**Colin Powell**  
Chairman

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